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## OFFICE OF PUBLIC INSTRUCTION

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Linda McCulloch  
Superintendent

DATE: March 11, 2003

TO: School Food Authority Administrators

FROM: Christine Emerson, Director  
School Nutrition Programs

SUBJECT: Procurement Standards for Public and Private Nonprofit Agencies

New rules for procuring supplies and equipment went into effect beginning July 1, 2001. Public agencies operating entitlement programs such as the National School Lunch, School Breakfast, Special Milk, and Summer Food Service Programs are required to follow procurement regulations at 7 CFR Part 3016, while private nonprofit organizations must follow regulations at 7 CFR Part 3019.

In regard to the new rules, there are several requirements of which an agency operating a Child Nutrition Program should be aware.

### Government Agencies

- Part 3016 instructs a governmental entity to use its own procurement rules where they are consistent with federal rules at 7 CFR Part 3016.36 (b) through (i).
- Section 3016.36 (d) sets the small purchase threshold at \$100,000 level established by 41 U.S.C. 403 (11). However, the small purchase threshold actually available to a governmental program operator is the lower of \$100,000 or the threshold set by state or local laws and regulations.
- Section 3016.60 (b) excludes any person that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions, or other documents for use by a grantee or subgrantee in conducting a procurement under USDA entitlement programs from competing for contract awards resulting from that procurement, regardless of the procurement method used.
- Section 3016.60 (c) prohibits the use of statutorily or administratively imposed state or local geographical preferences, except when procuring certain architectural or engineering services.
- The state procurement office should be contacted for questions concerning state and local procurement standards.

### Nonprofit Organizations

- Part 3019 instructs a nongovernmental entity to use its own procurement rules where they are consistent with federal rules at 7 CFR Part 3019.40 through 3019.48. The board of directors is the governing body and responsible for ensuring that its rules comply with the federal standards. It is also responsible for maintaining any necessary records for documenting compliance.
- Section 3019 shows the small purchase threshold as established by 41 U.S.C. 403 (11) as \$25,000, but the Federal Acquisition Streamlining Act of 1994 raised this threshold to \$100,000. Therefore, the small purchase threshold for a nongovernmental, nonprofit organization is \$100,000.
- Section 3019.43 excludes any person that develops or drafts specifications, requirements, statements of work, invitations for bids, and/or requests for proposals, contract terms and conditions from competing for such procurements.

The Office of Public Instruction, School Nutrition Programs requires School Food Authorities to maintain the necessary documentation to substantiate compliance with procurement requirements. Education and technical assistance are available through this office for proper implementation and compliance with requirements.

Please call Holly Humphrey, School Nutrition Programs Specialist, at (406) 444-4413 if you have questions.